

CALIFORNIA COASTAL COMMISSION

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Filed: 10/18/01
49th day: 12/6/01
180th day: 4/16/02
Staff: MW
Staff report: 2/14/02
Hearing date: 3/08/02

COASTAL DEVELOPMENT PERMIT: REGULAR CALENDAR

Application Number**3-01-104 (Adams, San Carlos Inn)**

Applicant.....Brian Adams, (John C. Mandurrigo, Agent)

Project location.....East side of San Carlos and West side of Mission St. between 7th and 8th Avenues, Carmel (APN 010-142-003 and 010-142-011). See Exhibit A.

Project descriptionConstruction of a new 7,429 square foot, 13-unit, residential care facility and a 5,000 square foot basement, garage, storage, and kitchen area accessed from Mission St. by a sloped ramp. Proposal of a roof garden accessed by elevator, a public mini-park, a private/public courtyard, and a gated inter-block walkway.

Approvals ReceivedCity of Carmel-by-the-Sea: Commercial Design Review, Use Permit, and Variance (DR 98-41 / UP 98-04 / VA 00-03) for Demolition and Construction of San Carlos Inn Addition.

File documents.....Coastal Development Permit files 3-00-090 (San Carlos Inn); City of Carmel-By-The-Sea uncertified Land Use Plan and Zoning Ordinance; Draft EIR (8/25/1999); Response to Comments on Draft EIR (10/20/1999); Superior Court Ruling, County of Monterey, Case No. M 49762 (3/5/2001).

Staff recommendation ...**Denial**

Staff Note:

This project was previously reviewed and agendized for Commission action at the October, 2001 meeting. The applicant withdrew the project prior to the hearing and subsequently resubmitted the same project. The public hearing on the prior project was opened at the June 13, 2001 Commission Meeting in Long Beach. The Commission continued the hearing on this item pending the receipt of additional information on associated litigation filed by *Friends of Carmel Cultural Heritage et al v. The City of Carmel*. The complaint addressed three components: the action of the City to approve demolition of the “Periwinkle” and “Sea Urchin” cottages; approval of demolition of the Hitchcock House (the subject of this permit application); and the City’s action to amend an existing ordinance by resolution rather than by ordinance. According to the City Attorney, the “Periwinkle” and “Sea Urchin” portion of the



California Coastal Commission
March 8, 2002 Meeting in Monterey

Staff: Mike Watson Approved by:

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litigation settled. On the other two matters, the trial court ruled that the “record contained substantial evidence” to support the City’s action to approve the demolition of the Hitchcock House but that the City acted improperly in amending the ordinance by resolution. The written decision regarding the City’s action on the Hitchcock House was released March 5, 2001. This decision has been appealed by the “Friends” although the City Attorney indicates that the appeal may be time barred. The written decision on the procedural issue regarding the amendment to the ordinance has recently been released. The Commission, at its June 2001 meeting, suspended its vote pending the outcome of this case and any potential implications for this application. The recently released writ throws out the City’s resolution invalidating the previous historical resource inventory and requires that the City reinstate the inventory. Thus, all future requests for demolition or substantial remodel require a historic evaluation be performed by a licensed historic architect for any structure on the historical resource inventory. This requirement had already been met in this application prior to the release of the writ.

I. Summary

The proposed project includes the demolition of four existing structures: a 1,200 square foot single family residence; a 1,000 square foot commercial space; a 300 square foot studio; and a 800 square foot apartment all within the City’s Residential/Limited Commercial District of the City of Carmel-by-the-Sea. In its place, the applicant proposes to construct a new, 13-unit residential care facility approximately 7,429 square feet, located on the East side of San Carlos and West side of Mission between 7th and 8th Avenues. The proposed project also includes a 5,500 square foot parking garage with seven (7) spaces, storage, and kitchen area that will be accessed from Mission Street. A roof garden, public mini-park, public/private courtyard, and gated inter-block walkway are also part of the proposal.

Carmel is a very popular visitor destination as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. Carmel is made particularly special by the character of the residential development within its City limits. Homes are nestled into the native Monterey pine/Coast live oak forest on a grid of streets that is executed in a way to yield to trees more than to engineering expediency. This is the context for Carmel’s community life and its built character.

The proposal raises questions as to whether this project would protect Carmel’s special community character consistent with the Coastal Act Section 30253(5). In particular, the project may result in the loss of a significant historical resource, the Hitchcock House. This structure was evaluated by at least two historic resource experts and was found to possess historic associations with notable persons. An EIR prepared for this structure concurred with the historic findings of these evaluations and concluded that demolition of this structure would constitute a significant impact. The City overrode the findings of the EIR and the courts concluded they had the discretion to do so. Therefore, although there has been considerable debate on this issue, much uncertainty still exists.

Likewise, the EIR and historical evaluation made findings that the Hitchcock House is a significant historic resource for its Art & Crafts architectural styling. The existing structure is a single-story



Craftsman design nearly 100 years of age. The proposed replacement structure is a Spanish revival architectural style complete with Mission clay barrel tile roof, wrought irons gates, and a stucco exterior. The replacement structure is complex in design, two-stories in height, and includes an elevator shaft that extends to 30 feet in the air. There will also be a significant change in site coverage due to the proposed increase in size, scale, and mass. The existing structures combined equal 3,300 square feet. The proposed replacement structure would be nearly 7,500 square feet and also include a 5,500 square foot subterranean parking garage.

The cumulative impacts of demolitions like this are also a concern. In the past 24 months, staff has received and processed nearly 40 applications for demolitions in Carmel. The Commission continues to receive 2 applications for demolitions in Carmel monthly. By demolishing the subject structure as proposed, its contribution to community character will be forever lost. Similarly, because community character has not yet been clearly defined, the overall cumulative effect of demolitions, such as the current project, on Carmel's character is unclear. The project cannot be found to be consistent with section 30253(5) at this time.

Part of the reason for this is that although the elements that define the City's character can be generally described, it has not been determined, for the purposes of the Coastal Act, how these elements interact to make Carmel special. The specific comprehensive planning objectives and standards to protect Carmel's community character are best determined through a community process culminating in a LCP. The City has submitted a LCP, which is currently under review by Commission staff.

Overall, staff recommends that the project be denied because it cannot be found to be consistent with 30253(5), and because it will prejudice the ability of the City to prepare a local coastal program that is in conformity with Chapter 3 of the Coastal Act, inconsistent with Coastal Act Policy 30604(a). The denial would be without prejudice to the proposed project inasmuch as once the City's LCP has been finished, and ultimately certified by the Commission, the proposed project could be held up against the applicable LCP standards and evaluated accordingly at that time. Until that time, however, Staff cannot recommend that the Commission find this application consistent with the Coastal Act.



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Exhibits

- A. Project Location Map
- B. Assessor's Parcel Map
- C. City Staff Report
- D. Neighborhood Photo's
- E. Site Plans
- F. Applicant's Alternative
- G. Letter from Office of Historic Preservation



III. Staff Recommendation on Coastal Development Permit

Motion: *I move that the Commission approve Coastal Development Permit Number 3-01-104 as submitted.*

Staff Recommendation of Denial. Staff recommends a **no** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Deny a Coastal Development Permit. The Commission hereby denies a coastal development permit for the proposed development on the grounds that the project will not conform with the policies of Chapter 3 of the Coastal Act, and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse effects of the development on the environment.

IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description and Background

The proposed project includes the demolition of four existing structures: a 1,200 square foot single family residence; a 1,000 square foot commercial space; a 300 square foot studio; and a 800 square foot apartment all within the City's Residential/Limited Commercial District of the City of Carmel-by-the-Sea. In its place, the applicant proposes to construct a new, 13-unit residential care facility approximately 7,429 square feet, located on the East side of San Carlos and West side of Mission between 7th and 8th Avenues. The proposed project also includes a 5,500 square foot garage, storage, and kitchen area that will be accessed from Mission Street. A roof garden, public mini-park, public/private courtyard, and gated inter-block walkway are also part of the proposal. The structures to be demolished are located on two back-to-back 4,000 square foot parcels (APN 010-142-03 and 010-142-011) in the Residential/Limited Commercial District (Exhibit B).

The proposed San Carlos Street level (upper floor) would consist of 3,783 square feet and contain seven



(7) units ranging in size between 320 and 380 square feet. Each unit contains its own bathroom, walk-in closet, and balcony. The San Carlos Street level also contains a lobby, communal dining area with fireplace, kitchen, elevator access, and covered public mini-park.

The proposed Mission Street level (ground floor) would consist of 3,572 square feet and contain six (6) residential units ranging in size between 280 and 320 square feet. The Mission street level also contains sitting area, exercise/steam bath/massage area, library, staff office, living area, elevator access, and access to observation deck. Each unit contains individual bathrooms, walk-in closets, and private patio areas; planter boxes and benches delineate the private areas. The originally proposed facility appears to be Spanish Revival in design with shallow, cement plaster exterior siding, a Mission clay barrel tile roof, multi-lite non-clad wood windows, exposed rafter tails and wrought iron railings. The proposed elevator shaft would extend to approximately 30 feet which is four (4) feet higher than permitted by city Municipal Code, the remainder of the building would be 26 feet in height. Accordingly the applicant has applied for and received from the City a height variance for the elevator shaft. More recently, the applicant has proposed an alternative exterior façade for the project (see Exhibit F).

There currently exists on-site a 1,000 square foot commercial space, 1,200 square foot uninhabited single family residence, an 800 square foot apartment, and a 300 square foot studio slated for demolition. The project requires a transfer of water credits from the existing buildings on-site to meet the Monterey Public Water Management District water allocation for residential care facilities.

To address CEQA, a draft Initial Study was published and circulated for public review in 1998. Along with a historical analysis, the Study found that the residential structure (i.e., 1,200 square foot "Hitchcock House") was not eligible for listing in the California Register of Historic Resources or for designation as a significant resource by the City of Carmel. The Carmel Preservation Foundation (CPF) refuted the Initial Study's findings and historical evaluation report. At its January 19, 1999 meeting, the Historic Preservation Committee of the City of Carmel acknowledged the questions and uncertainty regarding the historical aspects of the structure and thus requested that an Environmental Impact Report (EIR) be prepared. The EIR found that:

..the proposed project includes the demolition of the Hitchcock House, a historically significant resource in the City of Carmel. Demolition would result in a significant and unavoidable effect on the environment, since it would destroy a significant historical resource, and there are no mitigation measures available that would reduce the impact to less than significant.

The City of Carmel voted to certify the EIR as procedurally complete (October 1999) but found that the structure currently existing on the site did not constitute a historic resource. On February 9, 2000, the Planning Commission approved the Design Review (DR 98-41), Use Permit (UP 98-04), and Variance (VA 00-03) for the San Carlos Inn project (Exhibit C). The matter was taken up in Superior Court (Case No. M 49762, March 5, 2001) which found that the administrative record contained substantial evidence to support the City's claim that the Hitchcock House was not a locally significant historic resource.



B. Standard of Review

The City of Carmel-by-the-Sea is located entirely within the coastal zone but does not yet have a certified LCP. The Commission approved a Land Use Plan (LUP) and an Implementation Plan (IP) at different times in the early 1980s, but the City did not accept the Commission's suggested modifications. Thus, both the LUP and the IP remain uncertified. Until the Commission has certified the entire LCP submittal, the Commission retains coastal permitting authority over development within the City, for which the standard of review is the Coastal Act of 1976.

The Commission has authorized a broad-ranging categorical exclusion within the City of Carmel (Categorical Exclusion E-77-13) that excludes from coastal permitting requirements most types of development not located along the beach and beach frontage of the City. The proposed development, however, is not excluded under Categorical Exclusion E-77-13 because (1) it involves demolition, (2) it requires variances greater than 10% of the applicable standards under the City's Zoning Ordinance, and it is not a principally permitted use. As mentioned above, the applicant has received a 4-foot height variance for the elevator shaft, which is approximately 15% greater than the City's applicable standard.

Until the Commission has certified the City's LCP submittals, the Commission retains coastal permitting authority over non-excluded development within the City. As a result, although the City's current ordinances and policies can provide context and guidance, the standard of review for this application is the Coastal Act.

C. Issues Discussion

1. Community Character

The current project raises doubts about its consistency with Coastal Act Section 30253(5), which protects and preserves the character of special communities and neighborhoods. Coastal Act Section 30253(5) states:

***Section 30253(5).** New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Sections 30251 of the Coastal Act adds further protection to the scenic and view qualities of coastal areas:

***Section 30251.** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality on visually degraded areas. New*



development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Carmel's Community Character

Carmel, of course, is a very popular visitor destination, known as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. The City is considered a "special community" under the Coastal Act due to its unique architectural and visual character. It is often stated that Carmel, along with such other special coastal communities as the town of Mendocino, is one of the special communities for which Coastal Act Section 30253(5) was written. Indeed, Carmel has been, and remains today, a spectacular coastal resource known the world over as an outstanding visitor destination.

In particular, as a primarily residential community, the web of residential development in Carmel plays a key role in defining the special character of the City, as various architectural styles present reflect the historical influences that have existed over time. Carmel is distinctly recognized for its many small, well-crafted cottages. These modest, sometimes quaint residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. These little homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that was executed in a way that yielded to trees more than to engineering expediency. This was the context for Carmel's community life and its built character.

The demolition and replacement of existing residential buildings in Carmel, even projects such as this that are located in mixed-use areas, have great potential to alter this special community character protected by the Coastal Act. In particular, these projects raise questions as to (1) whether or not an existing house represents the historical, architectural, scale, and environmental character of Carmel; and (2) if a replacement structure detracts from Carmel's character because of a modern design, tree removal, proposed house size, or other characteristics.

The impacts of a residential demolition and rebuild on community character can depend on a variety of factors. For example, there are a number of cases where a house or houses were demolished and a single, much larger house constructed on the site. In other instances, a single house straddling a lot line has been demolished and two new, smaller houses were constructed. In either of these types of instances, the character of Carmel may or may not be preserved, depending on the context, but it is certainly changed, either through the increase in residential density or a change in mass and scale. The size of a house is one aspect of Carmel's character, but not all existing houses in Carmel are small. However, because the lots are almost all relatively small, about 4000 square feet, the general pattern of development is one of smaller houses.

The architectural style of houses in Carmel is another aspect of the City's character. Many of the houses were built in the first quarter of the century in the Craftsman style; others resemble houses that might be found in an English village. Modern style houses, while they do exist, are not prevalent in Carmel. A



residential demolition and rebuild project can both remove a structure that expresses the community character, and result in a new structure that may not reflect the surrounding neighborhood character.

A third aspect of Carmel's character is the pine and oak dominated landscape. Although the forest landscape is not all natural – there has been enhancement over the years by tree planting – it pervades the City and is a defining characteristic of Carmel. Demolition often can result in tree damage and/or removal. New construction after demolition also may result in the loss of trees, especially if a new structure is built out to the maximum allowed by the zoning. And, the potential for the growth of the next generation of trees is reduced in proportion to the increase in hardscape because there is less room for seedlings to get started.

The historic resource value of a structure is another important factor to consider when evaluating impacts to community character. In general, structures greater than 50 years old may be considered historic, depending on the results of a specific historic resource assessment. In some cases, depending on the persons associated with a structure, or the significance of a structure to Carmel's local history, a building may be deemed to be a historic resource by the City, the State Office of Historic Preservation, or other public agency. The Carmel Preservation Society also may have identified a structure as an historic structure, or a structure may be eligible for listing in the California Register of Historical Resources (CRHR), particularly if it is found to be a contributing element of the potential District One historical district in Carmel. (One consideration in the City's development of its LCP is the creation of historic districts. The City is assessing the viability of establishing a historic district where a critical mass of historical structures are known to exist. Structures located within one of these districts would be preserved and recognized for their contribution to the historical character of Carmel.) Finally, individual structures may be historically significant because they convey the design principles of a distinctive artistic or architectural style, such as the Arts and Crafts movement, which is typical in Carmel. The landscaping of a site may also be part of such a style.

Cumulative Community Character Impacts

Recent trends in demolitions also raise concerns about the cumulative impacts of individual projects on Carmel's community character. It is important, therefore, that the effect of this particular demolition/rebuild be evaluated within the context of the larger pattern of demolition and rebuild over the years in Carmel.

Over time, the character of Carmel has been changing as its older housing and commercial stock makes way for new, usually larger in size and scale, developments. According to the Commission's permit tracking database, approximately 650 projects involving development have received coastal development permit authorization in Carmel since 1973. The overwhelming majority of these involved residential development of one sort or another ranging from complete demolition and rebuild to small additions to existing structures. It is likely that this number undercounts this trend inasmuch as the Commission's database was created in 1993 and, while every effort was made to capture archival actions, the database may not reflect every single such action taken. In addition, due in part to the City's categorical exclusion, it is not clear how many projects involving substantial remodel (but not complete



demolition) have taken place over the years.

In contrast, the Commission's database for the period since 1990 is fairly robust. Since 1990, there have been roughly 185 coastal permit applications in Carmel. Of these, approximately 150 projects (or over 80%) involve some form of demolition, rebuilding and/or substantial alteration of residential housing stock in Carmel. This comes out to roughly 14 such residentially related projects per year since 1990; nearly all of these have been approved. Other than the three year period from 1992 – 1994 when a total of 13 applications were received, the number of development proposals in Carmel had been fairly constant until 2000. However, in the year 2000 alone, the Commission had received 44 applications; a full quarter of all applications received by the Commission for development in Carmel in the last decade. Of these 44 applications received in the year 2000, 33 of these involved some form of demolition, rebuilding and/or substantial alteration of residential structures. Thus far, in 2001, 13 applications have been received; 8 of these involved residential demolitions/alterations. As of this writing, another 19 demolitions are in various stages of City Planning review. Clearly the trend for demolition/rebuild/substantial remodel has been magnified in current years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the boundaries of this small town. As this trend has continued, it has become increasingly difficult to conclude that the demolition of residential structures is not significantly changing the unique character of Carmel.

Prejudice to LCP Planning Efforts

In addition to the direct concerns with whether a particular demolition is consistent with Coastal Act Section 30253(5), there is real concern that the individual and cumulative impact of changes in community character, primarily through the approval of residential demolitions, in the City of Carmel-by-the-Sea may prejudice the City's efforts to prepare and complete a certified LCP that is consistent with the Coastal Act. The Coastal Act provides in Section 30604(a):

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

It is not entirely clear whether and to what extent the history of demolition/rebuild/remodel has altered the special community character aesthetic of Carmel that is protected by the Coastal Act. The Commission has not undertaken a formal cumulative impact assessment of such a trend to date. There is little doubt that structures within the City have generally been getting larger, and that many structures of at least some individual historical and other value have been demolished. The difficulty is that the Commission cannot necessarily ensure that continuation of residential demolitions and rebuilds will



protect Carmel's community character. In other words, such projects may be prejudicing the City's completion of an LCP that is consistent with the Coastal Act.

Part of the reason for this is that although the elements that define the City's community character can be generally described (as discussed above; e.g., "the City in the forest", architectural style, historic value, scale, etc.), there has yet to be completed a comprehensive assessment and articulation of how all of these factors interact to define Carmel's character. Although individual projects may raise many concerns, depending on the facts of the structure, the nature of the proposal, the context of the development, etc., there are no planning standards and ordinances that provide a clear framework for whether a project meets the requirements of the Coastal Act – i.e., to protect the special community character of Carmel.

To implement the community character protection requirements of the Coastal Act, the Commission has always emphasized the importance of having local communities define their community character through a local planning process, so that a Local Coastal Program, when certified, will meet both the community's vision and understanding of its character, and the requirements of the Coastal Act. Although the Coastal Act provides a more general statewide policy framework for protecting community character, the details, for example, of whether particular types of structures should be deemed to be historic, or whether certain architectural styles reflect the character of a community, need to be developed through a local planning process such as that provided by the LCP process of the Coastal Act.

As mentioned earlier, the City of Carmel is currently finishing up a community planning process to determine, among other things, the basis for defining Carmel's community character, and ways to protect and preserve that character consistent with the Coastal Act. It is anticipated that the City will be submitting both a Land Use Plan and an Implementation Plan to the Commission for review in December of 2001. In the meantime, though, Coastal Act Section 30253 requires that individual projects not have direct or cumulative adverse impacts on Carmel's character; and Section 30604 requires that individual projects not raise significant concerns about consistency with Section 30253, lest they prejudice the completion of an LCP consistent with the Coastal Act. As discussed above, the cumulative residential demolition trend in Carmel has made it increasingly difficult to conclude that these projects are not significantly changing the special community character of Carmel. Although each project must be judged on its individual circumstances, the cumulative context necessarily shapes these judgements, precisely because the community character of a place is in part the sum total of its parts.

Because the more specific features that define Carmel's character, as well as their relative significance, is yet to be decided, **it is important to focus on measures of significant change to community character so that the completion of an LCP consistent with the Coastal Act is not prejudiced.** Thus, the Commission can be assured that projects that do *not* result in significant changes in the various features of Carmel's community character, will not prejudice the completion of an LCP consistent with section 30253. Examples of such measures of change in community character include the following types of questions:

Would the proposed project:



- Result in a 10% or greater increase in the gross square footage, height, or footprint (site coverage) from that which is currently present (the 10% measure reflects the standards of the Coastal Act for evaluating replacements of structures destroyed by a disaster (section 30610))?
- Result in the removal of any significant (i.e., 6" or greater in diameter) native pine, willow, cypress, or oak trees? Or, even if no trees are removed, involve sufficient limb removal to be a significant loss of forest canopy?
- Involve a structure greater than 50 years old for which the City has not performed a historic resource assessment (i.e., the potential historic value of the structure is uncertain)?
- Modify a structure deemed to be a historic resource by the City, the State Office of Historic Preservation, the Carmel Preservation Society, or other public agency or knowledgeable entity (since the value of the historic resource within the context of the community has not yet been defined, the demolition of such structures may prejudice the LCP)?
- Not identify a City-approved replacement structure (i.e., the project is a "speculative" demolition and thus by definition has an uncertain impact on community character)?
- Facilitate an increase in residential density (a common type of application is to demolish one house that straddles two parcels, to allow a replacement house on each parcel)?
- Facilitate replacement of traditional architecture style in favor of contemporary or modernistic styles (from the visitor's perspective, rustic cottage and Craftsman styles are those most likely representative of Carmel's architectural traditions)?

Specific Project Impacts and Coastal Act Consistency Analysis

As discussed below, the proposed demolition and rebuild raises significant concerns about consistency with Coastal Act section 30253(5). Because it will result in a number significant changes to aspects of Carmel's community character, it must be denied at this time.

Demolition of the Hitchcock House

The proposed project is located on two (2) adjacent parcels fronting San Carlos and Mission Streets between 7th and 8th Avenues. On the property adjoining Mission Street is the Hitchcock House, a two-story single family residence built in 1907. The Hitchcock House has maintained exceptional integrity in its 95+ years with changes mostly confined to the interior. It is located in its original site. It has almost always served as a residence except for a few years as an insurance office. The surrounding neighborhood, though zoned Residential/Limited Commercial, is mainly commercial in nature but does still retain a few examples of low-density single family residences. Even though the neighborhood has changed from a mixed Residential/Commercial zone to a more Commercial area in recent times, the Hitchcock House is sited in an area of the City that has historically been zoned for this type of mixed use. (See Exhibit D).



The Hitchcock House was previously owned by Joseph Hitchcock Jr. (1881-1937), a historian, surrey driver, and descendent of early Carmel settlers. The original two-story structure was built in 1907 by Mr. Hitchcock possibly with the help of M.J. Murphy, a noted architect and craftsman. In May of 1993, the Carmel Preservation Foundation (CPF) prepared a historic evaluation for the survey file of the City of Carmel's Inventory of Historic Resources. This evaluation stated, in part:

This is an irregularly shaped Craftsman bungalow, with a low pitched gabled roof, wide overhangs and exposed rafters. There is a cross gable on the north side and a second story at the rear, below the main floor level due to the slope of the lot. The sheathing is a narrow molded siding with shingles in the gable. There is an interior brick chimney rising through the ridge. The entry is recessed creating a large porch, supported at the front of the roof with square pedimented posts. The entry door is off center and flanked by wide, multipaned, fixed window. Other visible side windows are double-hung. A brick walkway circles the large live oak tree in the front yard and leads to the three entry steps. (CPF DPR 523 5/1993)

CPF placed the Hitchcock House on its list of significant resources based on a finding that the structure was clearly related to local events, associated with important persons, and contributed to the unique architecture of Carmel:

Born in Carmel Valley in 1881, Joseph Hitchcock was the grandson of Lt. Issac Hitchcock, who arrived with Commodore Sloat in the first wave of westward migration. Over his lifetime, Joseph had many jobs ranging from rancher, surrey driver, blacksmith, auto trimmer, and historian. His own accounts of his involvement in the development of Carmel are partially chronicled in his memoirs compiled by Marion Crush in the early 1970's. He worked in Monterey in Fletchers saddle and harness shop and later went to Oakland, fascinated with the automobile, he learned the auto trimming trade. Coming home to Carmel he set up business, as many remember, in a shed back of the house on Mission Street, where he did upholstery, particularly for the automobile. It was at this time that Joe began writing columns for various publications, most often for the Game and Gossip magazine. His colorful tales of early Carmel Valley, Carmel and Monterey life were run consistently for almost 12 years in this publication. (Letter from CPF to City Planning Commission 11/26/96)

In light of this information and public comments raised by the proposed project, the City's Historic Preservation Committee requested that an EIR be conducted for the project. The EIR, undertaken by Denise Duffy & Associates, reported there was significant unavoidable impacts to cultural resources associated with the proposed project (including demolition of Hitchcock House) for which there were no feasible mitigation measures available that would reduce the impact to less than significant:

The proposed project includes demolition of the Hitchcock House, a historically significant resource in the City of Carmel-by-the-Sea. This action would result in a significant and unavoidable effect on the environment since it would destroy a significant historical resource. This is a significant impact, which cannot be reduced to a less-than-significant level (EIR p.2-3).

The primary basis for this finding of significance was the fact that the Hitchcock House was listed as a significant historical resource in the CPF Carmel Historic Survey. According to CPF and the City's



Historic Preservation Committee, this listing itself was based on a comparison of the structure with the existing Historic Resource preservation standards of Carmel's zoning code. The code provides that a structure may be designated as significant if it is 50 years old or older, and exhibits one or more of the following characteristics:

1. *Cultural Heritage: its character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state, or country.*
2. *Significant Event: its location as a site of a significant local, county, state, or national event.*
3. *Important Person: its identification with a person or persons who significantly contributed to the development of the community, county, state, or country.*
4. *Architectural Distinction: its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials.*
5. *Notable Construction: its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state or country.*
6. *Architectural Detail: its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant.*
7. *Architectural Innovation: its embodiment of design elements that make it structurally or architecturally innovative.*
8. *Unique Site Conditions: its unique location or singular physical characteristics that make it an established or familiar visual feature.*

As concluded by the City's Preservation Committee and subsequently in the EIR, the Hitchcock House:

... meets the Ordinance Criteria Number 1; for its close association to Carmel's cultural heritage, as it was the home of a notable family for almost fifty years; Number 3; it embodies essential characteristics of the architecture of the early Carmel developmental years; Number 4; uses typical and locally indigenous materials of the period as well as helping to create the Carmel style.

Upon full disclosure of the EIR's findings and after addressing public comment, the City of Carmel-by-the-Sea adopted the EIR as procedurally correct but also found that the structure currently existing on the site did not constitute a historic resource. The finding was based on the results of an independent evaluation report of the Hitchcock House performed by Susan Lassell of Jones & Stokes Associates.

In the course of investigating the historicity of the structure, Ms. Lassell determined that the house was not eligible for designation as significant because it did not (1) convey the cultural heritage of Carmel, (2) was not the site of an important event, (3) did not convey the significance of an important person,



and (4) was not architecturally significant within the context of the Historic Context Statement for Carmel-by-the-Sea. The Jones & Stokes report reasoned that the structure did not convey any cultural heritage because the Hitchcock family members did not live in the house while they were actively participating in forging Carmel's cultural heritage. Furthermore, there was no indication that significant events took place at the house on Mission Street and that the house was not directly associated with any person(s) who significantly contributed to the development of the community. The City's consultants also found that the Craftsman style of architecture was not indicative of an architecturally exemplary or significant residence of Carmel.

The November 1998 Jones & Stokes Evaluation Report, described the existing building as follows:

At the street level the house appears to be one story, though because of the slope of the lot the rear of the building is two stories. The house has a medium pitch, cross-gable roof that is covered with asphalt shingle and exposed rafters in the eaves. The gable end of the roof projects past the entry façade of the house, creating a full-width entry porch that is raised three steps above street level. The porch has an enclosed porch railing with four wooden piers that support the boxed gable. The entire top level of the house, including the enclosed porch railing, is covered with a narrow wooden shiplap. Each of the gable ends have wooden shingle siding. Fenestration's throughout the house is wood frame and appears to be original. On the front (east) façade there are two tri-partite windows with fixed sashes and simple but decorative muntins and a wooden Dutch door with a three panel bottom half and a six light upper half. Fenestration's on the remaining facades consist of 1/1 light double hung sash windows, sliders with simple decorative muntins, single light pivot windows, and various wooden doors at the lower level of the house. There is a brick chimney on the exterior of the north façade and a chimney projecting from the west slope of the roof. (J&S 1998 p.13)

The Jones & Stokes report contended that the siting and overall character of the house as a Craftsman style residential property had been compromised by relatively more recent construction on Mission Street.

The house is flanked by a two-story 1950's era motel with a similarly small setback to the north and a small, two-story 1980's era professional office building with a large setback that is paved for parking to the south. Further south on the west side of Mission Street is a two-story, U-shaped office complex and a one-story commercial building. On the east side of Mission Street are several buildings built on the rise of a slope, sitting approximately 4 to 10 feet above the street level. These buildings include a motel, a multiunit residential building, a house with a street level garage, and another house that has been remodeled into a ballet school. The general character of the street is a continuation of the commercial and professional district that surrounds Ocean Avenue. Neither the Hitchcock House alone nor the physical context of the block convey the distinct character of Carmel's historic residential neighborhoods. (J&S 1998 p.13)

In addition, the Jones & Stokes Evaluation report on the Hitchcock family stated that:



Joe Hitchcock Jr. contributed to the early development of Carmel as an employee of the Carmel Development Company from 1903 to approximately 1915. The argument that his role as a surrey driver contributed significantly to the success of the Carmel Development Co. is not supportable. Even if his association with the Carmel Development Co. is significant, the house on Mission Street does not convey that significance. Joe Jr. moved out of his parents' house when he married in 1909, so he could have lived there only for a short time while working for the Carmel Development Co. Additionally, the residence of a person is not typically considered significant if the person is notable for activities that took place away from the home. Resources that would convey Joe Jr.'s significance would have to be related to the transportation theme, such as early trails and roads, blacksmith shops, livery stables, or stage stops, as indicated in the Historic Context Statement. (J&S 1998 p.15)

The Carmel Preservation Foundation submitted written comments rebutting the findings in the 1998 Jones & Stokes report. CPF argued that the prior evaluation performed in 1993 was historically and factually correct and was more than adequately reported and documented. The CPF was unable to persuade the City into adopting the structure as a historical resource and based on the conclusions of the Jones & Stokes report, the City instead adopted the EIR and overrode the historically significant finding of that report. Adoption of the EIR was challenged in the County of Monterey, Superior Court (Case No. M 49762). The petitioners (Carmel Preservation Foundation) contended that the City arrived at its decision without the benefit of an adequate environmental impact report (EIR). The court disagreed with the allegation and found that the City did in fact have enough evidence to support the finding that the Hitchcock House is not historic:

Petitioners argue that there cannot be a finding of substantial evidence because the EIR, although ultimately favorable, was inadequate in that it did not provide meaningful information in two key areas. It is contended that the EIR failed to consider what impact demolition would have on the City's dwindling stock of historic resources; and secondly, it failed to consider feasible alternatives recommended by the EIR.

The primary question to be answered is whether or not the evidence supports the finding that the Hitchcock House is not historic. The court has scrutinized the record and finds that it contains sufficient substantial evidence to support the City's determination in that regard. It is axiomatic that demolition of a structure that is not historic cannot contribute to a dwindling stock of historic resources. This finding of lack of historicity likewise undercuts the argument for the need to adopt feasible alternatives.

The City found that the structure is not worthy of protection because in their view the association between significant events or influential persons and the structure were not clearly made. The courts found that the City had discretion in overriding the findings of the EIR based on the conclusions made by a second "expert" regarding the historical associations of the structure.

Finally, at the request of Commission staff, the Office of Historic Preservation reviewed the evidence related to the historical significance of the Hitchcock House and found that the structure does not meet



the criteria for eligibility for the California Register of Historical Resources. See Exhibit G. Nonetheless, there remains uncertainty as to whether the structure should be considered historically significant at the local level.

Notwithstanding these prior decisions, the Commission is obligated to review the project's impacts to community character pursuant to its coastal development permitting authority. In addition, as summarized above, historic character is but one factor in evaluating the contribution of an individual structure to community character, particular in a community such as Carmel. In this case, first and foremost, there is considerable uncertainty as to the historic character of the Hitchcock House when considered in the context of Carmel not having a certified LCP. The original historic survey and evaluation prepared in 1993 determined the structure to possess historical associations with notable persons and architecture. A second evaluation performed at the request of the City of Carmel, declared the structure not to be historically significant. A written declaration from a third "expert" concurred with the findings of the first evaluation and requested that an EIR be prepared. The environmental impact report concluded that the structure is a significant historical resource. Nonetheless, the City overrode the findings of the EIR and the courts concluded that they had the discretion to do so.

Given the considerable debate on this issue, and the lack of certified LCP policies to define the historic character issue, there is too much uncertainty at this time to conclude that demolition of the Hitchcock House would not result in the loss of a historical resource or a significant change in community character. Although the City made findings that the Hitchcock House was not a significant historic resource, based on its zoning code standards, these standards are not part of a certified LCP. Further, based on these very standards, the certified EIR concluded that demolition of the Hitchcock House would constitute a significant impact. Whether or not these standards themselves are consistent with Coastal Act section 30253 is precisely the type of question that needs to be evaluated by the Commission, prior to approving projects that significantly change community character in Carmel. Otherwise the completion of an LCP that is consistent with the Coastal Act may be prejudiced. Overall, then, since the City of Carmel has yet to define its character in a certified LCP, demolition of this structure cannot be found consistent with Coastal Act section 30253 at this time, and will prejudice the City's ability to prepare and adopt a certified Local Coastal Program consistent with the Coastal Act. Therefore the project is also inconsistent with Coastal Act section 30604(a). On these grounds, the project must be denied.

Similarly, the Hitchcock House may also contribute to Carmel's character by virtue of its architectural design. The house does exhibit examples of the classic Craftsman architecture of its period. As mentioned above, the Carmel Preservation Foundation contends that that house is a unique and important example because it represents a very early local interpretation of the Craftsman style.

Note the low pitched, horizontally spreading gable roof with over-hanging eaves and exposed rafters. Further, the house has a full open porch, under the extended roof, support by square, capped posts. The siding is a locally milled, narrow notched clapboard generally only seen on building built before 1910. The top portion of the façade is shingled up to the gable ridge. Typical of this early style is the fenestration which consists of two, tripartite front windows



containing a fixed center sash and mullioned side slides. Other windows on the sides of the house are also slides and the entry opening is a two-part Dutch door. There is a cross gabled room addition set back on the left side of the main building which itself is rectangular single-storied at the front and following the terrain, contains a full basement at the rear. Adding to the historicity is a split-trunk oak tree in the front yard set back, and several old fruit trees in the rear. (Additional submission from CPF as rebuttal to Negative Declaration 2/14/99)

In a report to the Planning Director dated January 19, 1999, Jones & Stokes Associate, Susan Lassell stated that the question of [architectural] significance comes down to interpretation of the Craftsman style and whether to take an all-inclusive or a selective approach to listing properties that exhibit Craftsman influence.

The very features that the CPF letter cites as unique to the M.J. Murphy style—"narrow molded siding, its medium gabled roof, generous overhanging eaves and classic full width porch"—are the same characteristics cited in the McAlester's Field Guide to American Houses as the identifying features of the Craftsman style (McAlester and McAlester 1997: 452-453). In addition, the Carmel historic context statement cites Murphy as one of the 17 builders and 13 architects who influenced the Carmel architectural character. Thus, the CPF claim that Murphy "established the local building traditions and created the unique Carmel Craftsman architecture" and that Murphy houses as a group create the "historic ambiance of Carmel" is not supported by the historic context statement nor by any materials provided by CPF.

The all-inclusive approach supported by CPF would imply that every property designed and built by the 30 architects and builders named in the historic context statement would be determined eligible for listing. The approach guided by the preservation element considers whether the property conveys an important association with the Craftsman influence on Carmel. Because of the modest nature of the design and lack of integrity of setting, feeling, and association (with residential development of early Carmel), the house on Mission Avenue does not convey its association with the works of M. J. Murphy or early Carmel's residential development. (2/19/99 Letter from Susan Lassell, J& S Associates, to Brian Roseth, Planning Director)

Thus, as with the arguments for historical association with important persons, uncertainty exists with respect to the importance of the structure for its contribution to architectural style. Part of the debate is to what degree any individual structure is architecturally significant within the larger context of architectural resources of the City. Thus, while the Craftsman architectural style is clearly important to Carmel's residential character, the details of the importance, as evidenced by the debate summarized above, have yet to be resolved and embodied within an LCP. This is precisely the type of planning question that should be addressed through the LCP process in order to evaluate whether an individual impact is consistent with the Coastal Act. Thus, the Commission is unable to conclude that demolition of this structure will not result in a loss of character by virtue of its architectural design. Therefore, absent a certified LCP, demolition of this structure cannot be found consistent with Coastal Act section 30253 at this time, and will prejudice the City's ability to prepare and adopt a certified Local Coastal



Program consistent with the Coastal Act. Therefore the project is also inconsistent with Coastal Act section 30604(a). On these grounds, the project must be denied.

Demolition of Other Existing Structures

The proposed project also includes the demolition of two other residential structures and one commercial space on San Carlos Street in the Residential/Limited Commercial District. Neither the residential structures nor the commercial space qualify as a historic resource. There are no standout architectural designs and very little character considerations. Thus, although the project will remove three existing structures in favor of one larger structure, demolition of these structures, other than the Hitchcock House, will not result in a significant change in community character.

Proposed San Carlos Inn Residential Care Facility

As described by the City's February 9, 2000 staff report, the proposed San Carlos Inn Residential Care Facility has been designed to be architecturally compatible with the existing structures located within the Residential/Limited Commercial district. The facility proposal exhibits a Spanish Revival architectural style, including stucco exterior surfaces, a Mission clay barrel tile roof, multi-lite non-clad wood windows, exposed rafter tails and wrought iron railings (Exhibit E). The proposed elevator shaft would extend to approximately 30 feet, which is four feet higher than permitted by the City's municipal zoning code. The remainder of the structure would be 26 feet in height. Applicant has applied for and been granted a height variance for the elevator shaft. An 8.8 percent floor area design bonus was also granted by the Planning Commission for the facility's inclusion of public courtyard, mini-park, and intra-block walkway. More recently, the applicant has submitted a revised alternative with changes in the outer-façade (see Alternatives below).

The San Carlos Inn design was subject to the City's general commercial design guidelines which encourages modifications to respect and be compatible with the architectural character, scale, and design of the overall district. Design guidelines also call for providing walking malls within the interior of blocks and the use of open space and landscaping to maintain the village-like character of its commercial district. As described by the City's staff report, the proposed residential care facility appears consistent with the scale and architecture of the existing neighborhood and does not appear to conflict with the design guidelines for improvements to commercial sites. Yet, it is vastly different from the residential structures currently on site.

As noted in the 1998 Jones & Stokes report, the overall character of the surrounding neighborhood has been compromised by relatively more recent construction. The existence of the Hitchcock House and two other housing units may potentially represent the last purely residential structures left in the Residential/Limited Commercial District along Mission and San Carlos streets. Carmel is primarily a residential City, but is slowly losing a portion of its residential character in the margins surrounding its commercial core.

As alluded to above, the proposed facility is substantially larger than the existing structures on site. The



new structure represents a 30% increase in floor area, more than 50% increase in square footage, and includes an extra 5,500 square foot basement/parking garage. The dominant site features will no longer be the existing trees and open space, but rather the significantly larger structure spanning between Mission and San Carlos streets. The proposed project also requires the removal of up to 5 significant trees. The City's Forest and Beach Commission approved the removal of a 12", 14", and 19" coast live oak, one 24" holly tree, and an additional 10" double-spar oak, if needed. In places like Carmel, the Coastal Commission has typically considered removal of trees with a trunk larger than 6" in diameter as significant. All of the oaks proposed for removal are considered significant, as is the holly. Additionally, the Commission has been increasingly concerned with the replacement of traditional architectural styles in favor of modern or contemporary structures. The Spanish revival architecture (i.e., tile roof, stucco exterior, wrought iron gates) all exemplify a significant departure from the Craftsman style of the Hitchcock House currently displayed on site. In a nutshell, the proposed residential care facility represents a dramatic change from that currently existing on site. Accordingly, the Commission cannot find, at this time, that the proposed replacement structure is consistent with Coastal Act section 30253 requiring the protection of community character. Therefore the project is also inconsistent with Coastal Act section 30604(a), because it may prejudice the ability of the City to complete an LCP consistent with the Coastal Act.

Conclusion

Overall, as proposed, the demolition of the existing structure to facilitate construction of the new two-story residence will result in a significant change to the neighborhood's special character. Section 30253(5) of the Coastal Act requires that new development protect the character of special communities and neighborhoods. Whether or not this "change" is appropriate, has yet to be defined by the City of Carmel and the local community through the LCP process. The critical point is that there would be a significant change in community character with this project. If there were no significant changes in the various aspects that together make up community character in Carmel, the project might otherwise be approvable. (For example, in the recent Sparolini case (3-01-006), approved by the Commission, the house proposed for demolition was not particularly representative of the surrounding community character, whereas the replacement was more so. Similarly, there was no significant change in the scale and siting of the old and new building. Furthermore, the trees proposed for removal (the tree canopy) were fully mitigated.) Moreover, when the cumulative trend of increasing residential demolitions in Carmel is considered, it is difficult to conclude that this project does not result in significant impacts to community character. As such, the project as currently proposed cannot be found to be consistent with Section 30253(5) of the Coastal Act, either individually or cumulatively, because of uncertainties about what exactly would protect Carmel's character, consistent with 30253(5). Therefore, the project must be denied.

Further, by demolishing the subject structure now, its overall contribution to community character will be forever altered, replaced in some way by the structure meant to take its place at this location. Because community character has not yet been clearly defined, the effect of such a demolition on Carmel's character is unclear. Thus, the project will prejudice the ability of the local government to prepare a



local coastal program that is in conformity with Chapter 3, and is inconsistent with Coastal Act Policy 30604(a) and must be denied. This denial is without prejudice to the proposed project inasmuch as once the City's LCP has been finished, and ultimately certified by the Commission, the proposed project could be held up against the applicable LCP standards and evaluated accordingly at that time. Until that time, however, the Commission cannot find this application consistent with the Coastal Act.

Alternatives

As discussed above, the project must be denied because it cannot be found to be consistent with Coastal Act Section 30253(5) and is inconsistent with 30604(a). The Coastal Act also requires that any action by the Commission not adversely impact or result in a take or damage of private property rights. Coastal Act Section 30010 specifically states:

***Section 30010.** The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

In this case, the Applicant proposes to demolish three existing residences and one other structure and replace it with a residential care facility of much larger size and different architectural style. There are alternatives, though, that allow for a reasonable economic use of the site.

One alternative discussed in the EIR is the incorporation of the Hitchcock House and Craftsman style into the project design. This alternative would require retooling of the proposed structure on the Mission Street frontage to include a rehabilitated Hitchcock House as the east entry into the residential care facility. This alternative would also entail a stylistic change from Spanish revival to classic Craftsman. In so doing, the applicant could take advantage of the structures potential historic "associations" to create a point of interest for those beyond residents of the care facility.

On September 26, 2001, staff received a correspondence from the applicant's attorney with a recommendation for a variation on the above alternative. See Exhibit F. The applicant proposes to revise the façade of the new structure on the portion of the property presently occupied by the Hitchcock House and reuse salvaged materials wherever possible. Specific details of the applicant's proposal were not submitted, but it appears that the project does not involve rehabilitation or incorporation of the Hitchcock House into the proposed new structure. Thus, the proposal does not adequately address the concerns raised earlier in the staff report regarding changes in community character and the impacts associated with the loss of a potentially historic structure.

A second alternative is to wait until the City's LCP is complete. Under this alternative the application is withdrawn and resubmitted after the City's LCP has been certified. After the LCP has been certified, the application for a CDP (demolition and reconstruction) would be re-evaluated by the City of Carmel for



consistency with the LCP. The City has recently submitted the LCP to the Commission for review.

The third alternative is the “no project” alternative. As an alternative to demolishing the structures and reconstructing a new facility on site, the applicant can continue to lease the existing structures. The three structures other than the Hitchcock House would still provide an economic use in their present condition. Rehabilitation of the Hitchcock House would provide an economic use for the property fronting Mission Street.

Thus, though the current project proposal is not consistent with the Chapter 3 policies of the Coastal Act, there are feasible alternatives that would protect against the loss of community character, would not prejudice the City’s ability to prepare and complete its LCP and provide an economic use of the property.

2. New Development

The Coastal Act requires that new development be located where it will not have significant adverse effects on coastal resources. Section 30250(a) of the Act states:

***Section 30250(a).** (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

The Coastal act also considers development for commercial visitor serving facilities a priority use. Section 30254 of the Act states that:

***Section 30254...**Where existing ... public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*

Land Use

The site is located within one-half a block of the City’s Central Commercial District, approximately one and one-half blocks south of Ocean Avenue. The proposed development would be located in a previously developed area adjacent to existing commercial development. The site is currently developed with a 1,200 square foot single family residence; a 1,000 square foot commercial space; a 300 square foot studio; and a 800 square foot apartment. As proposed, the new structure will replace these uses with a 7,429 square foot residential care facility. The proposed uses are consistent with the uses allowed in the Residential/Limited Commercial District, based on the City’s zoning ordinance.



Parking

According to the City's staff report (February 9, 2000) the existing site is nonconforming in terms of parking, under the City's Municipal Code. Based on existing development the project site currently has at least a four (4) parking space deficit. The City's Code requires .33 parking spaces for each resident in residential care facilities. Accordingly, the proposed 13-unit project requires 4.3 spaces. The Code also requires a specific parking area design to ensure that adequate and safe maneuvering room is available. The applicant has proposed seven (7) underground parking spaces, though at least two (2) of the parking spaces may require multiple and complex turning movements. If the proposed parking is infeasible, the applicant will revise the plan to provide a minimum of five (5) parking spaces (4.3 rounded up to 5), consistent with the City's parking requirements. Since the project will remedy the overall number of deficit parking spaces, it will result in a net benefit to the parking demand in the downtown area.

Water

The Monterey Peninsula Water Management District (District) is the governing authority for water allocation and major supply facilities on the Monterey Peninsula while water service is provided by the California American Water Company (Cal-Am). Cal-Am provides water to its users through groundwater extractions and diversions from the Carmel River via the Los Padres Dam. Both of these sources are currently being utilized near or above their sustainable yield. Two threatened species, the California red-legged frog (*Rana aurora draytonii*) and the Steelhead (*Oncorhynchus mykiss*), are found in the Carmel River. In 1983 the District allocated 20,000 acre feet of water per year for the entire district area; an amount assumed to be sufficient to meet district needs until the year 2000. However, in the intervening years the water situation has changed greatly in the Monterey area. The State Water Resources Control Board has issued an order limiting the amount of pumping that Cal-Am can do from the Carmel River, not to exceed 11,285 acre-feet/year.

The Monterey Peninsula Water Management District (MPWMD) allocates water to all of the municipalities on the Monterey Peninsula. Each municipality distributes its share of water allocated to various categories of development, such as residential, commercial, industrial, etc. According to City staff, there is no more water remaining in the City's allocation for new uses. However, water transfers between existing uses commercial uses are permitted by the MPWMD. Such transfers are determined based on detailed water use formulae, depending on type of use.

According to a MPWMD letter of projected water demand and water use credit transfer requests (January 8, 2001), the water use factor for residential care facilities is currently estimated at 0.085 acre-foot per bed. At its proposed size, the 13-bed residential care facility would require 1.105 acre-feet of water per year. The San Carlos Inn project will therefore require an additional 0.781 acre feet of water above the 0.324 acre feet of water currently provided to the existing residential units and retail building. To make up the difference, the City of Carmel has pre-committed up to .897 acre-feet of water to the project. These water pre-commitments cannot be transferred to other projects until and unless the project for which the water has been pre-committed has been abandoned. Thus, a total of 1.221 acre-feet of water is available for the proposed residential care facility project; the remaining .116 acre-feet will be



returned to the City's reserve when the project is issued a building permit.

The MPWMD concurs with the City's estimated new demand (1.105 acre-feet) using the District's current commercial water use factors, though the District has not verified the City's estimated water credit (0.324 acre-feet). Final verification of the credit will occur only after the present uses have been abandoned. Furthermore, it should be noted that the District plans to update its commercial water use factors this year. The water use factor for residential care facilities may change after completion of the updated commercial water use survey. Any change in the factor could alter the water use projection for the proposed project if permits are not obtained before the survey is finalized.

Conclusion

The proposed land use is consistent with the uses allowed in the Residential/Limited Commercial District and with the City's Municipal Code. The proposed project will likely bring into conformance adequate parking on-site for the anticipated use and formal commitments made by the City are sufficient to find that there is adequate water available as a public service for the project. Therefore, the project is consistent with Section 30250(a) of the Coastal Act.

3. Public Access

Public Access policies of the Coastal Act require the protection of public access to the shoreline and recreational opportunities and resources within the coastal zone, including commercial visitor serving facilities. Sections 30210, 30211, and 30212.5 of the Coastal Act states:

***Section 30210.** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization...*

***Section 30212.5** Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

As the project is to be located on a previously developed site within the urban core of the Central Commercial District and will correct an existing parking deficit, it will not impact any recreational facilities or opportunities along the coast. The proposed project will create a large publicly accessible courtyard that in the middle of the site, a public mini-park accessed from San Carlos Street, and a gated intra-block walkway between San Carlos and Mission Streets that will be closed at night (See Exhibit E-2). The public courtyard and intra-block walkway total approximately 3000 square feet and extend along



the entire length of the property from Mission Street to San Carlos. Entrance to the courtyard (via walkway) is through a wrought iron gated “entry” at both ends; the gates will be open to the public from sunrise to sundown. An elevated observation deck (approximately 12’ x 24’) is accessed from the courtyard as well. The project also includes a 290 square foot public mini-park located at the southwest corner of the property along San Carlos Street. This mini-park contains benches and flowering planters and is open to the public 24 hours per day. The mini-park entrance is an extension of the current public sidewalk.

The project site is located approximately 8 to 9 blocks inland from the ocean (Exhibit A). Because of this, it is unlikely that the project would interfere or restrict public access at or along the coast, since patrons of the San Carlos Inn would not likely park at such a distance from their intended destination. Although several routes can access Carmel Beach, the primary public access route from Highway One to Carmel Beach is via Ocean Avenue. As the project does not increase the number of visitor serving inn units in Carmel, it is not expected to increase demand on these public access routes such that it would impact access to the beach, nor will the project restrict or otherwise negatively impact public parking along the coast.

Therefore, the project is consistent with Sections 30210, 30211, and 30212.5 of the Coastal Act.

D. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment.

The Coastal Commission’s review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. Notwithstanding the City’s adopted CEQA document, the Commission’s findings above (incorporated herein by reference) have documented that the proposed project could lead to significant adverse effects to Carmel’s community character protected by the Coastal Act, impacts that cannot be adequately evaluated without completion of the City’s LCP. Approval of the proposed project in the face of this uncertainty would prejudice the City’s LCP planning efforts. All public comments received relevant to this application have been addressed either in these findings or in other correspondence. As such, the Commission finds that the proposed demolition would result in significant adverse effects on the environment within the meaning of CEQA, and that at least two alternatives to the project are available. Accordingly, the proposed project is not approvable under CEQA and is denied.

